

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JAMES J. GUERRIERI,

Civil No. 06-3290 (JRT/AJB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

MICHAEL J. ASTRUE,

Defendant.

Gary A. Ficek, **FICEK LAW OFFICE**, 15 Broadway, Suite 505, Fargo, ND 581023, for plaintiff.

Lonnie F. Bryan, **OFFICE OF THE UNITED STATES ATTORNEY**, 300 South Fourth Street, Suite 600, Minneapolis, Minnesota 55415, for defendant.

Based on this Court's review of the record, the Court **AFFIRMS** Magistrate Judge Boylan's Report and Recommendation [Docket No. 13] dated May 21, 2007. IT IS **HEREBY ORDERED** that:

1. Magistrate Judge Boylan's Report and Recommendation [Docket No. 13] dated May 21, 2007 is **ADOPTED**; and
2. Defendant's Motion for Summary Judgment [Docket No. 9] is **DENIED**.
3. Plaintiff's Motion for Summary Judgment [Docket No. 6] is **GRANTED**.
4. The case is **REMANDED** to the Commissioner for a supplemental hearing.

DATED: June 18, 2007
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge